IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

BROADCAST MUSIC, INC.; ARC MUSIC CORP.; STONE DIAMOND MUSIC CORP.; RONDOR MUSIC INTERNATIONAL, INC. d/b/a IRVING MUSIC; GREGMARK MUSIC, INC.; LORD AND WALKER PUBLISHING,	
Plaintiffs,	
v.	**Case No. 17-cv-2089**
THE MEXICAN GRILLE, INC. d/b/a ESTEBAN'S; and ESTEBAN LOZADA, individually,	
Defendants.	

COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows:

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 *et seq*. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 10.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Rules 17(a) and 19(a) of the Federal Rules of Civil Procedure.

5. Plaintiff Arc Music Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Stone Diamond Music Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Rondor Music International, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff Gregmark Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Lord and Walker Publishing is a sole proprietorship owned by BenitaWalker-Moss. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Defendant The Mexican Grille, Inc. is a corporation organized and existing under the laws of the State of Illinois.

11. Defendant The Mexican Grille, Inc. operates, maintains and controls an establishment known as Esteban's, located at 1550 North Rt. 59, Suite 152, Naperville, IL 60563 ("the Establishment") in this district.

12. In connection with the operation of the Establishment, Defendant The Mexican Grille, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

13. Defendant The Mexican Grille, Inc. has a direct financial interest in the Establishment.

14. Defendant Esteban Lozada is the President of The Mexican Grille, Inc., with responsibility for the operation and management of that corporation and the Establishment.

15. Defendant Esteban Lozada has the right and ability to supervise the activities of Defendant The Mexican Grille, Inc. and has a direct financial interest in that corporation and the Establishment.

16. Upon information and belief, Defendant Esteban Lozada resides in this district at 2879 Gypsum Cr., Naperville, IL 60564.

CLAIMS OF COPYRIGHT INFRINGEMENT

17. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 16.

18. Since February 2015, BMI has reached out to Defendants over 40 times by phone and mail, to inform Defendants of their obligations under the Copyright Act to obtain a license for the public performance of musical compositions in the BMI repertoire. The letters included Cease and Desist Notices informing Defendants that they must immediately cease all use of musical compositions from the BMI Repertoire at the Establishment.

19. Plaintiffs allege four (4) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

20. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the four (4) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to "Lines" are lines on the Schedule): Line 1 provides the claim number; Line 2 lists the title of the musical composition related to that claim; Line 3 identifies the writer(s) of the musical composition; Line 4 identifies the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 provides the date on which the copyright registration was issued for the musical composition; Line 6 indicates the copyright registration number(s) for the musical composition; Line 7 shows the date(s) of infringement; and Line 8 identifies the Establishment where the infringement occurred.

21. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

22. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

23. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

24. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

25. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. § 502;

(II) Defendants be ordered to pay actual or statutory damages, pursuant to 17 U.S.C. § 504(a)–(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. § 505; and

(IV) Plaintiffs have such other and further relief as is just and equitable.

Dated: March 16, 2017

Respectfully submitted,

/s/ Charles A. Laff

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Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Ain't Got No Home
Line 3	Writer(s)	Clarence Henry
Line 4	Publisher Plaintiff(s)	Arc Music Corp.
Line 5	Date(s) of Registration	5/8/84 10/12/56 1/31/74 4/18/57
Line 6	Registration No(s).	RE 205-241 Eu 454642 Ep 320533 Ep 108088
Line 7	Date(s) of Infringement	12/7/16
Line 8	Place of Infringement	Esteban's

Line 1	Claim No.	2
Line 2	Musical Composition	How Sweet It Is To Be Loved By You a/k/a How Sweet It Is (To Be Loved By You)
Line 3	Writer(s)	Lamont Dozier; Brian Holland; Eddie Holland
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	8/27/64
Line 6	Registration No(s).	Ep 191750
Line 7	Date(s) of Infringement	12/7/16
Line 8	Place of Infringement	Esteban's

Line 1	Claim No.	3
Line 2	Musical Composition	I'll Take You There
Line 3	Writer(s)	Alvertis Isbell
Line 4	Publisher Plaintiff(s)	Rondor Music International, Inc. dba Irving Music
Line 5	Date(s) of Registration	4/3/72 7/17/72
Line 6	Registration No(s).	Eu 321670 Ep 301733
Line 7	Date(s) of Infringement	12/7/16
Line 8	Place of Infringement	Esteban's

Line 1	Claim No.	4
Line 2	Musical Composition	Stormy Monday a/k/a They Call It Stormy Monday a/k/a Call It Stormy Monday
Line 3	Writer(s)	Aaron T. Walker
Line 4	Publisher Plaintiff(s)	Gregmark Music, Inc.; Bernita Walker-Moss, an individual d/b/a Lord and Walker Publishing
Line 5	Date(s) of Registration	5/9/75 7/15/63 10/10/47
Line 6	Registration No(s).	R 604983 Ep 177515 E 98450
Line 7	Date(s) of Infringement	12/7/16
Line 8	Place of Infringement	Esteban's
